

1816, William Clagett died intestate, leaving a considerable real and personal estate, and the defendant Elizabeth his widow, and

Baltimore County, on the ground of the invalidity of the Act authorizing such construction without condemnation, refused. *Hiss v. R. W. Co.*, 52 Md. 242. Injunction to restrain defendant from removing railway tracks of plaintiff on a street for the purpose of constructing a sewer under the bed of the street in pursuance of a contract made with the city, refused. *Kirby v. R. W. Co.*, 48 Md. 168. Injunction granted to restrain a railroad from building a lateral road across a turnpike, it not having the authority so to do under its charter. *Turnpike Co. v. R. W. Co.*, 35 Md. 224.

An injunction will not be granted to restrain parties professing to be officers of a turnpike company from collecting tolls and interfering with the passing of plaintiff's teams, because if the road in question were a highway, over which complainant had a right to travel without obstruction, he had simply made out a case of a public nuisance by the erection of the toll gate, the remedy for which was by indictment. *Schall v. Nusbaum*, 56 Md. 512. Injunction to restrain a ferry company from exclusive use of the end of a street as a wharf, under its charter, refused. *Broadway Ferry Co. v. Hankey*, 31 Md. 346. Cf. *Wharf Case*, post, 361.

IV. INJUNCTIONS AFFECTING MORTGAGES AND PARTIES THERETO. Equity will, at the instance of a mortgagee, either before or after default by the mortgagor, interfere by injunction to prevent waste, destruction, or removal, by the mortgagor, of the mortgaged property, whether real or personal. *Parsons v. Hughes*, 12 Md. 1; *Rose v. Bevan*, 10 Md. 467; *Clagett v. Salmon*, 5 G. & J. 314; *Salmon v. Clagett*, 3 Bland, 125; *Murdock's Case*, 2 Bland, 461; *Brown v. Stewart*, 1 Md. Ch. 87; *State v. Railway Co.* 18 Md. 194.

Where a vendor of land has parted with the legal title, the purchase money being unpaid, and the vendee mortgages the property to a party taking the mortgage *bona fide* and without notice, equity will not enjoin, at the instance of the vendor, a sale of the property by the mortgagee. *Dance v. Dance*, 56 Md. 437. On a bill for an injunction by a mortgagor against the assignee of the mortgagee, to restrain a sale of the property on the ground that the mortgage debt had been paid, it appeared that the alleged payment consisted in part of certain bonuses, or usurious interest, of which the evidence failed to show that the assignee had notice. *Held*. 1. That if the assignee had had notice, and the excessive interest paid, together with the payments actually made on account of the mortgage debt, had amounted to a sum equal to, or greater than, the debt itself, the complainants would have been entitled to an injunction. 2. That as the assignee was a *bona fide* purchaser, without notice of the payment of usury to the mortgagee, the complainants were not entitled to have the sale restrained. *Gault v. Grindall*, 49 Md. 310. In *Building Ass'n v. Kratz*, 55 Md. 394, an injunction was granted to stay sale by a mortgagee, until an account should be stated showing the exact amount due. Cf. *Eq. Ass. v. Becker*, 45 Md. 632.

A bill charged that an instrument in the form of an absolute bill of sale for a nominal consideration, was executed by complainant to secure the payment of two notes given by him to defendant; that these notes had been afterwards paid, notwithstanding which defendant had seized and carried away the goods with intent to sell them, and the complainant prayed that the bill of sale might be declared to be a mortgage and delivered up to be cancelled, and an account stated between the parties, and for an injunction